

In the United States Court of Federal Claims

No. 93-648-1L

Filed: January 10, 2008

TO BE PUBLISHED

LAND GRANTORS IN HENDERSON,
UNION and WEBSTER COUNTIES,
KENTUCKY and THEIR HEIRS,

Plaintiffs,

v.

THE UNITED STATES,

Defendant,

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Accrual of Claims;
Congressional Reference;
Equitable Tolling;
Statute of Limitations.

MEMORANDUM OPINION AND FINAL JUDGMENT

In this case, the court previously held that “the record establishes that the [Plaintiffs’] claim arising from the [Department of Interior’s] leases to Felmont Oil Corporation and Kingwood Oil Co. accrued on or about May 1, 1957 and December 1, 1959, respectively.” *See Land Grantors in Henderson, Union, and Webster Counties, Kentucky v. United States*, 64 Fed. Cl. 661, 711 (2005). The court also held that “the record establishes that the former landowners’ claim arising from the April 15, 1966 sales of coal, gas, oil, and other minerals accrued on or about that date.”¹ *Id.* Plaintiffs agree that accrual is not at issue. *See* Plaintiffs’ Opposition To United States’ Motion For Judgment On The Pleadings, Or, In The Alternative, Motion For Judgment On The Record (filed Dec. 14, 2007), at 27.

On January 8, 2008, the United States Supreme Court clarified and definitively ruled that the statute of limitations governing claims filed, pursuant to 28 U.S.C. § 2501, is “absolute . . . forbidding a court to consider whether certain equitable considerations warrant extending a limitations period. As convenient shorthand, the Court has sometimes referred to the time limits in such statutes as ‘jurisdictional.’” *John R. Sand & Gravel Co. v. United States*, No. 06-1164, 2008 U.S. LEXIS 744, at *7 (Jan. 8, 2008) (internal citations omitted).

¹ Subsequently, the Government produced documents, at the court’s direction, providing the precise dates in 1965 on which these rights were sold. *See Land Grantors in Henderson, Union, and Webster Counties, Kentucky v. United States*, 74 Fed. Cl. 518, 527 (2006) (Court Addendum).

Accordingly, the clerk of the United States Court of Federal Claims is directed to dismiss the October 3, 2005 Second Amended Complaint in Case No. 93-648-1L as barred by 28 U.S.C. § 2501. The stay of Congressional Reference No. 93-648X is lifted and the court will issue a Final Report on or before April 14, 2008.²

IT IS SO ORDERED.

s/ Susan G. Braden
SUSAN G. BRADEN
Judge

² On December 27, 2007, the court granted the Government's Unopposed Motion For An Enlargement Of Time To File A Reply In Support Of The Government's Motion For Judgment On The Pleadings, Or, In The Alternative, Motion For Judgment On The Record, on or before January 14, 2008.